



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/755,233 | 01/08/2001 | Padmanabhan P. Nair | NAIR-5 | 4931 |

7590 04/07/2003

Mishrilal L. Jain
11620 Masters Run
Ellicott City, MD 21042

[REDACTED] EXAMINER

UNGAR, SUSAN NMN

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1642

DATE MAILED: 04/07/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/755,233

Applicant(s)

Nair

Examiner

Ungar

Art Unit

1642



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE one MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Feb 8, 2003

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 7-9, 22, and 26-28 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) _____ is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims 7-9, 22, and 26-28 are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. _____.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

4) Interview Summary (PTO-413) Paper No(s). _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

6) Other: _____

Art Unit: 1642

1. The Election filed February 8, 2003 (Paper No. 8) in response to the Office Action of January 10, 2003 (Paper No. 7) is acknowledged and has been entered. Applicant amended claim 7 and stated that the amendment of claim 7 made the instant restriction requirement inapplicable. Applicant further states that Examiner failed to include claim 22 in the restriction requirement. Examiner apologizes for the inadvertent omission. Applicant's election of Group III, claims 7, 22, 26-28 is noted and found to be nonresponsive because claim 22 was not included in Group III in the restriction requirement imposed in Paper No. 7. Therefore, in view of Applicant's amendment which renders the restriction requirement inapplicable, the nonresponsive election and the previous inadvertent omission of claim 22, the previous restriction requirement is hereby withdrawn and the restriction therein is vacated.
2. Claims 7-9, 22 and 26-28 are pending in the application and are currently under prosecution.

Please Note: In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-308-4315. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Anthony Caputa, Ph.D., Supervisory Patent Examiner at 703-308-3995. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.

3. Restriction to one of the following inventions is required under 35 U.S.C.

§ 121:

Groups I-VI. Claims 7-9, 27-28 are drawn to immunocoprocytes isolated from fecal matter expressing IgA, IgC, Cfc or a combination thereof, classified in Class 435, subclass 325. It is noted that by factorial analysis, claim 7 is drawn to six different inventions wherein the inventions are (1) immunocoprocytes expressing IgA, (2) immunocoprocytes expressing IgC, (3) immunocoprocytes expressing Cfc, (4) immunocoprocytes expressing IgA and IgC, (5) immunocoprocytes expressing IgA and Cfc, (6) immunocoprocytes expressing IgC and Cfc, each of which is a distinct invention. Applicant is required to identify and elect a single invention.

Groups VII-XIV. Claims 7 and 26 are drawn to immunocoprocytes isolated from fecal matter expressing IgA, IgC, Cfc or a combination thereof and expressing chimeric immunoglobulin IgC, classified in Class 435, subclass 325. It is noted that by factorial analysis, claim 7 is drawn to six different inventions wherein the inventions are (1) immunocoprocytes expressing IgA, (2) immunocoprocytes expressing IgC, (3) immunocoprocytes expressing Cfc, (4) immunocoprocytes expressing IgA and IgC, (5) immunocoprocytes expressing IgA and Cfc, (6) immunocoprocytes expressing IgC and Cfc, each of which is a distinct invention. Applicant is required to identify and elect a single invention.

Group XV. Claim 22 is drawn to a method for determining mucosal immunity classified in Class 435, subclass 4.

Art Unit: 1642

3. The inventions are distinct, each from the other because of the following reasons:

Inventions I-XIV as disclosed are biologically and chemically distinct, made by and used in different methods and are therefore distinct inventions.

The inventions of Groups I-XIV and XV are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (I) the process for using the product as claimed can be practiced with another materially different product or (ii) the product as claimed can be used in a materially different process of using that product [see *MPEP* § 806.05(h)]. In the instant case the immunocoprocye products as claimed can be used in a materially different process such as antigenic sources for the production of antibodies against the cells.

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and/or recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is (703) 305-2181. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

Art Unit: 1642

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached at (703) 308-3995. The fax phone number for this Art Unit is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Effective, February 7, 1998, the Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1642.


Susan Ungar
Primary Patent Examiner
March 31, 2003